

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

Form To Be Used By A Prisoner in Filing a Complaint

Under the Civil Rights Act, 42 U.S.C. § 1983

2009 DEC 29 PM 2:26

DEPUTY CLERK

ORIGINAL

Timothy Davis - W.M.D.C # 2944-09

Plaintiff's name and ID Number

WAYNE McCollum Detention Center

2005 JACKSON ST. WAXAHACHIE, TX 75165

Place of Confinement

CASE NO. **3-09CV2465-L**

(Clerk will assign the number)

v. Ellis County Court (# 2) - 1201 N. HWY 77 SUITE #107

WAXAHACHIE, TX 75165

Defendant's name and address

AHORNEY - VANCE W. HINDS - 215 W. Franklin St. Suite 200

WAXAHACHIE, TX 75165

Defendant's name and address

ELLIS County Police CHIEF SULLIVAN - 300 S. JACKSON ST

WAXAHACHIE, TX 75165

Defendant's name and address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$350.00.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$350 filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed any other lawsuits in state or federal court relating to your imprisonment? YES ☒ NO ☐
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: N/A - NONE
2. Parties to previous lawsuit:
Plaintiff(s) NONE
Defendant(s) NONE
3. Court: (If federal, name the district; if state, name the county.) N/A
4. Docket Number: N/A
5. Name of judge to whom case was assigned: N/A
6. Disposition: (Was the case dismissed, appealed, still pending?) NONE
7. Approximate date of disposition: NONE

II. PLACE OF PRESENT CONFINEMENT: 306 S. JACKSON ST. WAXAHACHIE, TX 75165

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? ✓ YES NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: (Home Address) PO Box #411
Italy, TX 76651 - (TIMOTHY DAVIS -)

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: ELLIS County Court (#2) - 1201 N. Hwy 77
Suite # 107 - WAXAHACHIE, TX 75165

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

WAS Directly Involved In Illegal Contempt Sentence (And Cruel & Unusual Punishment)
SHOWED EXTREME Prejudice IN A CASE OF CHILD Rights THAT HAS NO INVOLVEMENT IN

Defendant #2: ATTORNEY (Court APPOINTED) VANCE HINDS
215 W. Franklin - SUITE 200 - WAXAHACHIE, TX 75165

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Breached Attorney Client Privilege (of Privacy) & Insufficiently Counseled

Defendant #3: Ellis County Police CHIEF Sullivan,
300 S. JACKSON ST. - WAXAHACHIE, TX 75165

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

WAS Given A Court Order of Advising For Good Time But HAS NOT HONORED ANY
Positive Action TOWARD My Court Orders, Keeping Me From Getting Any Good Time

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. **IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.**

Re: To be duly given right for my legal Due Process of the Law,
By Ellis County Court #2 The misdemeanor Court of Ellis County. Where Judge
Gene Calvert presides over said court. On June, 23rd 2009 I Timothy L. Davis
was Scheduled For A Trial by Jury of (6). For A Charge of (ASSAULT with Bodily Injury).
The time for Trial was 9:00 AM. I arrived on time and was met by my Court
Appointed Attorney, Mr. Vance W. Hinds. We were sitting out in The Audience
reviewing for the trial At hand. While we spoke out the ordinary
Mr. Hinds made a statement to me saying "Mr Davis you should be advised
that it is Possible that you can Be Held IN Contempt of Court for
smelling like marijuana in the court room."
The Trial started at 9:30 AM with me

VI. RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

To help to have my Sentence of the 180 Days to be Found AS it WAS A Illegal Sentence
And to Award me \$500.00 Per day For the contempt of Court that WAS Trumped up By my Attorney

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

Aliases name (Snake) Family Given - Nick Name

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

(1304196 TDCJ) Number

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): NONE

2. Case Number: NONE

3. Approximate date sanctions were imposed: NONE

4. Have the sanctions been lifted or otherwise satisfied? NONE YES ☒ NO

C. Has any court ever warned or notified you that sanctions could be imposed? YES ☒ NO

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): N/A NONE

2. Case Number: NONE

3. Approximate date warnings were imposed: NONE

Executed on: NONE
23RD Dec 2009
DATE

Mr. Timothy Davis
(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$350 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this 27 (Day) day of Dec (month), 2009 (year).

Timothy L. Davis
(Signature of plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.

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STATEMENT OF Claim
Continued Page No. 2

Never having Moved Closer Than (28) Feet To The Presiding Judge, (Calvert) During THE Trial. But apparently My Own State Appointed Attorney, Broke Our Attorney Client Privilege (Private Communications). Information Was Breached As Far As My Attorney. Because I was found guilty of the charge (which the entire trial was in ^{ESSENCE} a mockery apart from true justice) My attorney had went to the Judge and The District Attorney during some part of the time of trial. After The First Part of The Trial (One Hour Into THE Trial) The Judge Called for A Recess of THE Court At 10:30 AM. After The Return of All Parties Of THE Trial At Hand We again Proceeded with THE Trial at hand. There Was Several THINGS That Took Place During this Part of THE Trial THAT Gave Rise To THE Surety that my Attorney had Taken Up With THE STATE Against Me. Before THE Recess Took Place THE Witness For The Plaintiff MADE A STATEMENT Saying THAT I Said During THE Incident "Yeah, I didn't, And I Should have Hit THAT (Expletive) Too." This WAS Stated by One of THE Police From THE Town Of Italy Tx. That Did THE Arresting of Me On THE Date of Said CHARGE. My Attorney Objected to the Statement, And THE Judge Sustained The Objection And gave THE District Attorney A WARNING To Not Do THAT Again And Made Reference To This To THE JURY. But After THIS During THE Second Part Of THE Trial THE D.A. Repeated THE SAME Struck Statement; Nobody seemed to MAKE NOTE that THIS STATEMENT HAD BEEN Sanctioned To Not Be

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Not Repeated. Even My Attorney Never MADE It Known Again to THE Court, When THE End of THE Court And Sentencing Time Came, THE Court MADE THE Judgement For THE Primary CHARGE WAS... Guilty As Charged. And as soon As THE Judgement Giving Me 100 County days Time, And THEN THE Judge Said, I AM Finding You In Contempt OF Court For BEING Under THE Influence Of MARIJUANA. And He Said I SMELLED OF Marijuana. But He Never was Close Enough To Me To Know THAT. My State Appointed Attorney Had Told The Court Of His assumption of My "Reeking" (as it seemed to him) of an uncommon scent. When Spoken To About THIS By THE Judge, I openly did admit to having used Marijuana. He Got Very MAD and SAID that He Was Giving Me 180 days stacked on top of THE 100 days sentence. THE REASON For My Saying that The Defending Of my case was 100% Not Done in My Interest at All. None Of My witness's were Ever Subpoenaed even after they were visited By Investigators. Still THEY WERE Not subpoenaed. This could surly swing the case my way. Also A Video in the Arresting Officers car never even show well enough for anyone to see me in the film also no audio was ever heard, even though it was equipped with one in the squad car. My attorney never spoke in this part of the proceedings. Then I was given Instructions to finish my 100 days and the Court gave instructions to bring me back on Oct. 1st from The Jail to be given A Review and judgement of my Contempt of Court, In Order to see if I was staying in good

Timothy E. DavisStatement of ClaimPage 4 of 4Continued Page # No. 4

Standing With THE Jail In Reference To My Conduct, and That I Was Maintaining Also A Clear Record Without Any Issues as Far As Family Problems, BEING THAT My Family and A Person Outside of THE Family Whom This Case Was In Regard Of. When I attended THAT Session I Recieved A ORDER OF THE COURT - That Read (No Incidents Reported From Sherriff/Jail) "NOT Reduce Sentence at This Time." But Also Extra Good Time Would Be Availible, And Depending ON If I Could Be Considered For A Trustee Job Here at THE Jail, Because Ellis County Jail Does Not Give Any Good Time At All Unless An Inmate Works. THE ORDER OF THE COURT Stated THAT I Should be Able To Maintain Good Conduct And Not Have To Do Day For Day, If So Deemed By THE Sherriff. But THE Chief Mr. Sullivan Denied My Good Time And Not To be even Considered for Trustee. He Said Due To My Past Record. THERE Are Worst Records of All Kind THAT Work as Trustees. THIS IS Outright Injustice. I Have Children outside Of THIS Jail That depend on my Assistance and A Job to get To. When I was THEN scheduled To Go For My Next Review IN Nov. 13th THE Judge Did Not Even Give Me A CHANCE To Speak. My Fiancee HAD ALSO Come to Court. All THE Judge asked was. "Whats going on with your custody decision with your Daughter (Something Not Even Having To Do With Any of THESE CASE's and Proceedings IN County Court Of Ellis County Number(2)) And THINGS Seem to always Be looming around for Some Way To Get Me Into Trouble Here. I Actually Fear For My Safty... My Signature ^{MR.} Timothy Davis

